

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

REGINALD A. ROBERTS	:	CIVIL ACTION
Plaintiff,	:	
	:	
	:	
v.	:	
	:	
	:	
RISA VETRI FERMAN, et al.	:	
Defendants.	:	NO. 09-4895

ORDER

AND NOW, this 19th day of July, 2011, upon consideration of Defendants' Motion for Summary Judgment and Statement of Material Undisputed Facts (Docs. 103, 104), Plaintiff's Response and Statement of Undisputed Facts (Doc. 109), and Defendant's Reply (Docs. 111, 112), as well as Plaintiff's supplementary documents (Docs. 113, 115, 116); Plaintiff's Motion for Partial Summary Judgment (Docs. 32, 33, 77, 78), Defendants' responses thereto (Docs. 36, 83, 85), and Plaintiff's replies (Docs. 38, 84),¹ and following oral argument that was held before

¹ By Order filed September 10, 2010 (Doc. 50), the Court denied Plaintiff's Second Motion for Partial Summary Judgment without prejudice to renew. Plaintiff renewed his Second Motion for Partial Summary Judgment in accordance with the Court's instructions, given during a September 9, 2010 hearing on the record. During the hearing, the Court instructed Plaintiff that if he wished to renew Document 32, he must only provide notice via a one-sentence memorandum, (Hr'g Tr. 22-23, Sept. 9, 2010), which would, by implication, incorporate his initial motion. Accordingly, the Court considers Plaintiff's original Motion (Doc. 32), together with his Renewal Notice and any exhibits attached thereto (Docs. 77, 78), as a new Motion for Summary Judgment subject to Federal Rule of Civil Procedure 56.

the Court on April 28, 2011,² it is hereby **ORDERED** that:

1. Defendants' Motion for Summary Judgment is **DENIED IN PART** and **GRANTED IN PART** as to Count I of Plaintiff's Complaint. Specifically, Defendants' Motion is denied as to Plaintiff's claim for race discrimination and as it pertains to Plaintiff's claim of retaliatory termination. Defendants' Motion is granted as it pertains to any additional claims of unlawful retaliation by Plaintiff.

2. Defendants' Motion for Summary Judgment is **DENIED IN PART** and **GRANTED IN PART** as to Count II of Plaintiff's Complaint. Defendants' Motion is denied as to Defendant Ferman on the issue of Plaintiff's termination; Defendants Vance and Gallen on the issues of Plaintiff's termination and forced transfer, and Defendant Forzato on the issues of Plaintiff's continuing to work in a dangerous environment and forced transfer. Defendants' Motion is granted as to Defendants Bernstiel and Justice and as to Defendants Ferman, Vance, Gallen, and Forzato on all other issues brought under Count II.

3. Defendants' Motion for Summary Judgment is **DENIED IN PART** and **GRANTED IN PART** as to Count III of Plaintiff's Complaint. Defendants' Motion is denied as to Plaintiff's claim against Montgomery County for Due Process violations related to Plaintiff's claim for Heart and Lung benefits. Defendants' Motion is granted as it relates to all other claims of municipal liability.

4. Defendants' Motion for Summary Judgment is **DENIED IN PART** and **GRANTED**

² The record for summary judgment motions was deemed closed by the Court as of its April 29, 2011 Order (Doc. 119). Therefore, Plaintiff's Supplemental Notice to the Court (Doc. 125), which was filed on May 11, 2011, was not considered by the Court for purposes of the pending motions for summary judgment.

IN PART as to Count IV of Plaintiff's Complaint. Defendants' Motion is denied as it pertains to Plaintiff's claim for violation of his right to Equal Protection by Defendants Ferman, Vance, and Gallen only on the issue of Plaintiff's termination. Defendants' Motion is granted as it pertains to Plaintiff's claim for violation of his right to Equal Protection by Defendants Forzato, Bernstiel, and Justice. Defendants' Motion is also granted as to Plaintiff's claim for violations of his right to Due Process by the named defendants.

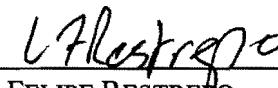
5. Defendants' Motion for Summary Judgment is **DENIED IN PART** and **GRANTED IN PART** as to Count V of Plaintiff's Complaint. Defendants' Motion is denied as to Count V of Plaintiff's Complaint for race discrimination and retaliation in violation of the Pennsylvania Human Relations Act, consistent with the Court's ruling on Plaintiff's claims of the same under Title VII. Defendants' Motion is also denied under 43 Pa. Const. Stat. § 955(e) as to Defendants Ferman, Vance, Gallen, and Forzato. Defendants' Motion is granted under 43 Pa. Const. Stat. § 955(e) as to Defendants Justice and Bernstiel.

6. Having granted summary judgment in favor of Defendants Justice and Bernstiel on all counts against them, these defendants are hereby **DISMISSED** in this matter.

7. Plaintiff's claim under 42 U.S.C. § 1986 is **DISMISSED**.

8. Plaintiff's Cross-Motion for Partial Summary Judgment on Count III and IV is **DENIED**.

BY THE COURT:



L. FELIPE RESTREPO
UNITED STATES MAGISTRATE JUDGE